

State Human Rights Committee
2006 Annual Report
On the Status of the
DMHMRSAS Human Rights System

Approved by the SHRC on July 13, 2007

Presented to the
State Mental Health, Mental Retardation and Substance Abuse Services Board
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Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2006 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights.

The State Human Rights Committee continued its long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Office of Human Rights staff. It provided first-hand knowledge and familiarity with services that are available and provided in a variety of settings. We held meetings at four state facilities, one private provider and three Community Services Boards/Behavioral Health Authorities. These meetings provided opportunities for the SHRC to receive feedback from consumers about quality of care, meet our service providers, visit community-based programs and share points of view about human rights issues. Consumers, staff, and family members also shared their experiences and ideas as to how the SHRC could improve the effectiveness and efficiency of services delivered in facility and community settings.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. In 2006, approximately 4730 complaints were managed through the human rights system and all but eight of those were resolved at the provider level. The SHRC heard three complaints on appeal. If responsiveness to consumer complaints is an indicator of system success, then the fact that over 99% of complaints are resolved at the lowest level indicates a highly effective system of dispute resolution. The SHRC commends the consumers, providers, advocates and family members who worked together to resolve these issues.

During the past year the SHRC continued its efforts to increase monitoring of the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged in dialogue with staff regarding the committee's concern about the quality of treatment and limitations the system imposes upon consumers including delay in discharge and smoking policies. More details about our goals, objectives and activities can be found beginning on page 13 of this report.

Providing support and guidance to local human rights committees is one of the most important responsibilities of the SHRC. One way the SHRC accomplishes this responsibility is by continuing the practice of members visiting local human rights committees. The committee finds these visits to be an excellent way for SHRC members to obtain first hand knowledge of the problems and progress of the local committees as well as providing an opportunity to provide guidance and increase communication.

Increasing communication to local committees is also accomplished through the publishing of the SHRC newsletter Human Writes. Editor Davey Zellmer successfully published four volumes of Human Writes in 2006. Copies of those editions can be found in the appendix of this report.

The SHRC continues to be very active in its role as local committee for the Virginia Center for Behavioral Rehabilitation (VCBR). In reviewing VCBR policies the committee has made a number of recommendations to staff regarding policies that were overly restrictive. As a result of maintaining open communication with staff, the committee has been successful in getting staff to change some policies and practices to be less restrictive and at the same time to maintain the necessary security required. The committee also used the Level 3 Complaint process to recommend less restrictive practices to the facility.

We extend our sincere gratitude to the Office of Human Rights staff and our volunteers who serve on Local Human Rights Committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of this year's accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, we will succeed in making this program the best possible.

*

R. Michael Marsh, Ph.D., Chair
State Human Rights Committee

Margaret Walsh, Director
Office of Human Rights

* It is with great sadness that we note the passing of our friend and colleague Dr. R. Michael Marsh.

Overview

The Department's Office of Human Rights, established in 1978, has as its basis the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated, funded and licensed by DMHMRSAS.

Title 37.2-400, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.1-84.1 and the right to access legal counsel; and
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan.

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* promulgated pursuant to §37.2-400 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC)

- ◆ The SHRC consists of nine members appointed by the State Mental Health, Mental Retardation and Substance Abuse Services Board (hereinafter the Board).
 - a. Members shall be broadly representative of professional and consumer interests and of geographic areas of the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their

initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.

- b. No member can be an employee or Board member of the Department or a Community Services Board.
- c. All appointments after November 21, 2001 shall be for a term of three years.
- d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
- e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

Duties and Responsibilities:

- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.
- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates or LHRCs and assure the availability of the opinion or report to

providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.

- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.
- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

Mission Statement

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.2-400 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DMHMRSAS Human Rights dispute resolution program.

Structure

The Office of Human Rights is located within the Department of Mental Health, Mental Retardation and Substance Abuse Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Appointed by the State Board, the SHRC acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations; review and approve LHRC bylaws, and; appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned. Advocates who serve state facilities and regional advocates are assigned to community public and private programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

State Human Rights Committee Members

Dr. R. Michael Marsh Chair

R. Michael Marsh, MSW, MPA, Ph.D. Social Worker, retired. Dr. Marsh was appointed on July 1, 2001. He served on the Blue Ridge CSB (now known as Blue Ridge Behavioral Healthcare) LHRC, and provided outstanding leadership and direction to the LHRC as Chair. Dr. Marsh retired as Facility Director of Catawba Hospital for the DMHMRSAS in 1995 having served in that capacity for 17 years. Prior to employment with DMHMRSAS he was a Medical Service Corps officer serving in a variety of positions in the Army that included working as a clinical social work officer and as a general staff officer in the Headquarters Department of the Army and in the Office of the Secretary of Defense. Dr. Marsh resided in Salem.

Dr. Angela Brosnan Vice Chair

Dr. Angela S. Brosnan, Psychiatrist. Dr. Brosnan was appointed on March 15, 2002. Dr. Brosnan was staff Psychiatrist and Medical Director of the substance abuse program at the Mental Health Clinic of McGuire Veterans Administration Hospital in Richmond. She also served as Consultant on Psychiatry for Child Neurology at the Bureau of Crippled Children in Richmond, Chairman of the Physician's Consulting Group at St. Mary's Hospital in Richmond, and President of the Richmond Psychiatric Society. Dr. Brosnan is in private practice for both inpatient and outpatient psychiatry and is a member of the Medical Malpractice Advisory Panel to the Supreme Court of Virginia. Dr. Brosnan resides in Richmond.

Dr. Joyce Bozeman

Joyce E. Bozeman, BSW, MPA, Ph.D. was appointed on July 1, 2001. She has administrative experience in Virginia's higher education system, state agencies and non-profit organizations. Prior to her current position as Assistant Vice President for Administration at Norfolk State University, she was Senior Policy Advisor to the President of Virginia State University. Dr. Bozeman has held several facility and Central Office positions within DMHMRSAS including Executive Assistant to the Commissioner from 1987 to 1991. Dr. Bozeman resides in Chesapeake.

Ms. Carmen Anne Thompson

Mrs. Carmen Anne Thompson was appointed on June 28, 2002. Ms. Thompson served two consecutive terms on the Catawba Hospital Local Human Rights Committee (LHRC), during which time she consistently demonstrated her personal commitment to the protection of human rights. She was an outstanding member of the LHRC and served as Chair during her second term. She is a mental health consumer and has family receiving

substance abuse services. Ms. Thompson has a background in education and motivational speaking. Ms. Thompson resides in Moneta (beautiful Smith Mountain Lake), Virginia.

Ms. Davey Zellmer

Ms. Doris “Davey” Zellmer was appointed on June 28, 2002. At the time of her appointment she was serving as Chair of the Northern Virginia Training Center LHRC. Ms. Zellmer is a retired Registered Nurse and an ANA Certified Psychiatric Nurse. She served as Director of the Rehabilitation Services Unit, Director of the Community Care Unit, and Director of the Social Center for Psychiatric Rehabilitation at the Mount Vernon Center for Community Mental Health in southern Fairfax County. Ms. Zellmer has a son who is receiving services in the community. Ms. Zellmer resides in Fredericksburg.

Ms. Delores Archer

Ms. Delores Archer is Director of Intake and Referral Service for the Department of Psychiatry at VCU Medical Center. She has clinical training and expertise in the field of social work and has practiced in the private and public sectors. Ms. Archer has extensive knowledge and experience with the human rights system and the Department through her past membership on the SHRC. Ms. Archer resides in Richmond.

Mr. Bobby Tuck

Mr. Bobby Tuck has a son who is receiving services from DMHMRSAS, which helps to fulfill the SHRC’s mandate for consumer and family membership. He is a respected former member of the Southside Virginia Training Center Local Human Rights Committee and served as Chair of that committee. He has extensive knowledge of the human services delivery system and has been an active participant in a number of organizations committed to the protection of our consumers. Mr. Tuck resides in Richmond.

Mr. Kirby Wright

Mr. Wright is Director of R.C. Right Group Home in Danville, Virginia, and is a former member and Chair of the Southern Virginia Mental Health Institute Local Human Rights Committee. He was a positive driving force of the local committee and has been an active and respected member of the state committee. Mr. Wright resides in Danville.

Ms. Christina Delzingaro

Ms. Delzingaro is the former Personnel and Quality Assurance Coordinator for Central Virginia Community Services Board in Lynchburg, Virginia, and a former Executive Director of the ARC of the Piedmont in Charlottesville, Virginia. She has served on the Western State Hospital Local Human Rights Committee as a consumer representative. Ms. Delzingaro resides in Charlottesville.

Mr. Joseph Lynch

Joseph G. Lynch, LCSW, to the SHRC. Mr. Lynch is a founding partner of Newman Avenue Associates, P.C., in Harrisonburg, which provides therapy and consulting services to individuals, couples, groups and families. He has also served as Director of Family Counseling Services, Inc., in Harrisonburg, Virginia, and was responsible for administration and delivery of direct clinical services to individuals, families, groups and organizations. Perhaps most importantly, Mr. Lynch is a cofounder and former clinical staff member of Shenandoah Valley Sex Offenders Treatment Program, P.C., in Harrisonburg. Mr. Lynch resides in Harrisonburg.

Officer Appointments / Membership Changes

Effective July 1, 2006

Dr. Michael Marsh, Chair
Dr. Angela Brosnan, Vice Chair

Resignation accepted on January 27, 2006

Barbara Jenkins

Term expired on June 30, 2006

Bobby Tuck

Terms beginning July 1, 2006

Christina Delzingaro
Joseph Lynch

State Human Rights Committee Activities

- **LHRC Bylaws**

LHRC Bylaws and Bylaw revisions were approved for the following LHRCs.

Universal Family LHRC

- **Variances**

Variances were approved for the following providers.

Poplar Springs Hospital
Virginia Beach Psychiatric
Blue Ridge Behavioral Health Care - Hegira House and Shenandoah Recovery
Cumberland Mountain - The Laurels
New River Valley CSB - Bethany Hall, New Life Recovery
Central Virginia Training Center
Western State Hospital
Central State Hospital
Specialized Youth Services
Keystone Newport News

- **LHRC Appointments**

The SHRC appointed 151 individuals to serve on Local Human Rights Committees.

- **Meetings**

In 2006 the State Human Rights Committee held the following meetings:

January 27	Hanover Fleet Services Ashland, Virginia
March 10	Southside Virginia Training Center Petersburg, Virginia
April 21	Piedmont Geriatric Hospital Burkeville, Virginia
June 9	Burrell Center, BRBHA Roanoke, Virginia
July 14	Stafford Clinic, RACSB Stafford, Virginia

September 1	Commonwealth Center for Children and Adolescents Staunton, Virginia
October 27	Virginia Beach Psychiatric Center Virginia Beach, Virginia
December 1	Western State Hospital Staunton, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with first hand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided. Meetings are frequently held at other locations to accommodate hearings or when the agenda dictates the need to schedule meetings in the Central Office. The SHRC met at the newly renovated Virginia Beach Psychiatric Center during the past year in support of the private providers throughout the state.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than 4730 human rights and abuse/neglect complaints were processed through the human rights resolution process in 2006. All but eight of these cases were resolved at the Directors level or below. Those eight cases were appealed to local human rights committees and three of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state.

The Virginia Center for Behavioral Rehabilitation (VCBR) has a unique complaint resolution process that includes three levels of review. VCBR complaints are not appealed to either the local or the state human rights committee but rather to the VCBR Appeals Committee, which includes a member of the SHRC. There were a total of 160 complaints processed through the VCBR complaint process in 2006. Seven of those complaints were appealed to and decided by the VCBR Appeals Committee.

Issues addressed in decisions rendered by the SHRC, the VCBR Appeals Committee and local committees this past year included:

- * right to protection from harm, abuse and exploitation
- * right to confidentiality
- * right to treatment with dignity
 - Room searches
 - Missing property
 - Rules for visitors
 - Religious and political beliefs
- * right to informed consent
- * right to participation in decision-making

- * right to freedoms of everyday life
- * right to access and correct record
- * right to services (including medical services and CSB services in jails)

SHRC Biennium Goals and Recommendations for 2007-09

Biennium Goal #1

Periodic review of the human rights regulations began in the fall of 2004. The SHRC recommends that this review include, but not be limited to, the following:

- Conforming the regulations with HIPAA
- Pursuing ways of increasing the effectiveness and efficiency of the LHRC system
- 12 VAC-35-115-50 (4) c and (5) regarding the type of professional that can approve the limit of phone access or visitors in SA programs
- 12 VAC 35-115-30 and 100 regarding Time Out
- Reporting requirements

Progress toward Biennium Goal #1 to date:

2005 SHRC activities related to goal #1 included committee members participating on the Human Rights Regulation Revision (H3R) Advisory Committee and the Participation in Decision Making Subcommittee.

The Department used the report of the H3R Advisory Committee as the chief document for advising on the revisions to the human rights regulations.

The Department received 88 comments from individuals and groups during the public comment period what was held in late 2006. The Department revised the regulations based on some of those comments and submitted the regulations to the State MHMRSAS Board for approval. On May 4, 2007, the State MHMRSAS Board approved the regulations for submission to the Executive Branch for final action.

Biennium Goal #2

The SHRC will promote the department's system transformation including the concepts of recovery and self empowerment.

A new indicator was added to this goal in 2006

- Consumers report satisfaction with quality of life and decision-making.

Progress toward Biennium Goal #2 to date:

James S. Reinhard, M.D., Commissioner, presented an overview of Self Determination, Empowerment and Recovery, to the SHRC during it's meeting on December 3, 2004.

Three members of the SHRC attended the Governors Conference on Self Determination, Empowerment and Recovery, in Richmond on December 9 and 10, 2004.

The SHRC issued a statement supporting the concepts of Self Determination, Empowerment and Recovery on April 27, 2005.

The SHRC heard a presentation by Medical Director James Evans on the Department's plans to promote smoke-free facilities in a manner consistent with the concepts of recovery, self-determination and empowerment.

The SHRC received information about the implementation of the changes to Medicare Part D and the potential impact on individuals in our system. The SHRC was heartened to learn of the efforts of providers to assist individuals through this change.

On October 27, 2006, SHRC heard a presentation from Dr. James Reinhard on System Transformation and Recovery.

Biennium Goal #3

The SHRC recommends that DMHMRSAS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor state facility ready-for-discharge lists on a quarterly basis.
This indicator was revised in 2006:
 - ❖ Discharge lists will be reduced;
 - ❖ Individuals are satisfied with services and life after discharge.
- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers beginning September 10, 2004.
This indicator was revised in 2006:
 - ❖ Providers support, teach and encourage individuals to make their own decisions.
 - ❖ Public Guardianship funds are used appropriately to discharge individuals from training centers.
- Monitor Department and system efforts toward maintaining youth in the community following their transition to adult services beginning September 10, 2004, including the establishment of a subcommittee to review current information and statewide efforts in this area. The subcommittee will provide updates each meeting and submit a final report by December 3, 2004.
This indicator was revised in 2006:
 - ❖ Youth in transition will receive appropriate services
 - ❖ Promote Provider Choice
 - a. Individuals receive services in a timely manner

- b. Individuals and family members get full, unbiased choice of providers.

Progress toward Biennium Goal #3 to date:

The SHRC monitors the state MH facility discharge lists on a quarterly basis.

The SHRC requested that the Department provide an update on the status of services for youth in transition at its meeting on July 15, 2005.

Frank Tetrick, Assistant Commissioner, and Lee Price, Director of the Office of Mental Retardation (OMR), presented the OMR provider training schedule to the SHRC at its December 3, 2004 meeting. The SHRC recommended that human rights be included in some of the training modules.

Shirley Ricks, Director of Child and Family Services Office, and Kim McGaughy, Executive Director of the Office of Comprehensive Services, provided an update to the SHRC on the state's activities regarding children's services on July 15, 2005. The SHRC was impressed with the coordinated effort and is hopeful that it will result in improved services for youth in transition.

Russell Payne, DMHMRSAS Community Support Specialist, provided information to the SHRC at its meeting on March 10, 2006 regarding the Department and overall public system's discharge efforts. Mr. Payne will continue to report to the SHRC every six months.

Russell Payne reported that the number of individuals waiting for discharge from state facilities continues to decline.

Biennium Goal #4

The SHRC recommends that DMHMRSAS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- State Facilities will reduce the use of seclusion and restraint.

Progress toward Biennium Goal #4 to date:

The SHRC received a brief overview of TOVA concepts on October 22, 2004 and issued a letter of support and recommendation to Commissioner Reinhard on December 6, 2004.

The Department provides training on TOVA to community partners.

The Department will revise the TOVA manual in 2006. OHR staff will participate in the revision and provide updates to the SHRC.

The SHRC reviews and monitors data on the use of seclusion and restraint in state facilities

Biennium Goal # 5 (New)

The SHRC will be efficient and effective.

- Required tasks will be completed in a timely manner

Biennium Goal # 6

The SHRC will monitor the Virginia Center for Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies, and complaint resolution as needed at every meeting or as issues arise.

- Residents are treated with dignity and respect (new indicator)

Progress toward Biennium Goal #6 to date:

The SHRC receives a monthly report from the human rights advocate serving VCBR.

Members of the SHRC have toured VCBR twice since it's opening. During these tours committee members met and spoke to some of the residents.

The SHRC receives updates on the plans for the construction of the new VCBR facility scheduled to open in 2008.

The SHRC reviewed 13 VCBR policies and procedures and participated in the review of 7 Level III complaints in 2006. The SHRC has reviewed more than 32 policies and procedures since the facility opened.

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- Enhance communication with LHRCs.

Progress toward Biennium Goal #7 to date:

As of June 2005, seven SHRC members attended at least one meeting of a local human rights committee. Two SHRC members attended more than one local human rights committee meetings.

The Code of Virginia was changed in July 2005 to require each local and state committee to have a "health care provider". The SHRC and OHR

provided guidance to local committees on this change in the law. Most local committees are meeting this requirement at this time.

The SHRC issued newsletters in January and April 2006. (See Appendix II)

State and local human rights committees are “public bodies” and as such they are subject to the Virginia Freedom of Information Act (FOIA). The SHRC and OHR have provided training and resources to local committees on their responsibilities under FOIA in person, by guidance documents and via the newsletter. A change in FOIA as of July 2006 will require additional activities for public bodies.

The SHRC conducted a survey of the state facilities and staff of the human rights office to ascertain the level by which providers are complying with the requirement to provide LHRC administrative support (12 VAC 35-115-250 A, 11). The SHRC issued a reminder to state facilities and OHR staff about this requirement.

By June 2006, all SHRC members attended at least one meeting of a local human rights committee during the past year.

The SHRC reviewed materials and activities that local committees and providers are using to recruit new members.

The SHRC revised the LHRC application form in order to advance the interviewing and appointment process.

The SHRC issued guidance on bylaws, minutes and quorums.

The SHRC published 4 volumes of Human Writes in 2006.

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.

- Review the Seminar Evaluations by October 22, 2004.
- Prioritize training issues based on the evaluations
- Develop strategies to address the identified training issue.
- Enhance leadership skills of LHRC members (new indicator)

Progress toward Biennium Goal #8 to date:

The SHRC reviewed Seminar evaluations at its meeting on October 22, 2004 and considered topics and structure for future seminars. The SHRC and human rights staff discussed the different needs of providers and LHRC members and considered whether each would be better served by having separate trainings.

The SHRC and OHR surveyed local committee members about training needs in April and May 2006. The results of the survey will guide the planning of the 2007 LHRC/SHRC Seminar. The seminar will focus on training for LHRC members rather than program staff.

The SHRC supports and will participate in the 2007 Human Rights Seminar scheduled for fall 2007.

Biennium Goal # 9

The SHRC will recognize the service of LHRC members. (Revised Goal)

Progress toward Biennium Goal #9 to date:

The SHRC established a subcommittee on June 3, 2005 to explore the feasibility of a recognition award or other activity to encourage and recognize exemplary programs, acts or significant contributions to the human rights system.

LHRC members were recognized at the State MHMRSAS Board luncheon in April 2007.

The SHRC is considering presenting future awards at either the LHRC/SHRC Seminar or the State Board Volunteer Luncheon.

Biennium Goal # 10

The SHRC will explore options to promote successful succession planning for advocacy within the Department and community human rights system.

Progress toward Biennium Goal #10 to date:

The SHRC monitors the recruitment of OHR staff and the activities of the Department toward workforce development. The SHRC is aware of the general “aging” of state employees and the impact this phenomena will have on institutional memory. The SHRC is considering ways to assist with and promote the recruitment of individuals as human rights advocates.

Office of Human Rights Program Highlights

Staffing

The Office of Human Rights experienced several staff changes in 2006. Deb Lochart was hired as Regional Advocate in Region II following the resignation of Musa Ansari. Mary Towle rejoined the Region II office on a part time basis to help with NVTC. Giannia Mitchell was hired to fill the vacancy left by the resignation of Virginia Goodell at ESH and Carrie Flowers was hired to fill the vacancy left by the resignation of Tonya Cunningham at CSH. The Office of Human Rights Directory/Roster and OHR Regions chart can be found in Appendix I.

The Office of Human Rights continues to operate with reduced staff resources. Over the past five years the OHR has lost two advocate positions, two secretary positions and one management position. These losses coincide with an increase of individuals served in the community, an increase in the number of private providers, and an increase in the number of local human rights committees. The current staffing pattern severely reduces the availability of the OHR to provide quality advocacy services. At risk is the availability of OHR staff to provide training to consumers, providers and professionals. Training is necessary to increase understanding and awareness of the regulations without which consumers could be at risk. The Department's overall system of consumer protection, including the Office of Licensing, is at risk due to the lack of staff resources.

Adding to the staffing shortage in the past year, the Office of Human Rights lost its funding through the Title 4 E program. This resulted in the office carrying one and a half vacancies from late 2006 into 2007 when the Virginia General Assembly allocated funds to replace those lost.

The proliferation of new providers across the state has put an extra burden on already stretched staff. Regional staff worked with new providers to facilitate licensure in order to provide services to individuals.

The number of new providers per region in 2006 is as follows:

- 12 in Region I
- 10 in Region II
- 5 in Region III
- 23 in Region IV
- 18 in Region V
- 7 in Region VI

The number of LHRCs per region in 2006 follows:

- 9 in Region I
- 8 in Region II
- 7 in Region III
- 13 in Region IV
- 18 in Region V
- 8 in Region VI

The OHR continues to promote the cross training of all advocates. At this time, all advocates provide services to both community and state facility programs which strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* continued throughout the year. OHR staff provided over 70 training events in 2006. These efforts included the following activities:

Training: OHR staff provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers
- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.dmhmrsas.virginia.gov. Click on Human Rights on the left side of the page.

This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook
- Sample Test Questions

Office of Licensing / Office of Human Rights

This past year saw a continuation of the cooperation and collaboration between the OHR and the Office of Licensing. These efforts were prompted by §§ 37.2-400, 37.2-412 and 37.2-419 of the Code of Virginia. These sections of the code require providers to be in compliance with the

human rights regulations in order to become licensed by the Department and require each provider to undergo periodic human rights reviews. The code also establishes human rights enforcement and sanctions, which provides consequences for providers for failure to comply with human rights regulations.

The Office of Human Rights and Office of Licensing collaborated on several high profile investigations during 2006 resulting in criminal charges against providers and the revocation of licenses. Both offices view such efforts as critical to ensuring that individuals are served in safe, sanitary and humane environments

Training and Staff Development

Quarterly Advocate (QA) meetings were held at Western State Hospital on March 23, August 30 and 31 and November 30, 2006. QA training was geared toward enhancing staff ability to effectively advocate for their consumers, and monitor the implementation of the regulations. Topics covered during the last year included the following: Virginia Freedom of Information Act (FOIA); coercive treatment including forced medication, restrictions on personal freedoms such as smoking and sex, seclusion, revision of the regulations; regional updates; abuse and neglect; the complaint process; promoting recovery, self empowerment and self determination; leadership; and the LHRC/SHRC Seminar. These meetings also served to keep staff informed of relevant policy and legislative changes. One of the most important and beneficial aspects of the QA meetings is the regional updates. This provides a forum for all staff to share what is happening in their areas with each other. Staff use this time to share ideas and promote creative problem solving.

LHRC/SHRC Seminar

The Office of Human Rights plans to sponsor the next a LHRC/SHRC Seminar to coincide with the release of the revised regulations sometime in late 2007. The program for the seminar will be based on a survey of Local Human Rights Committee members in order to ensure that the seminar meets the training needs of committee members.

Abuse Related Initiatives

Office of Human Rights staff have been involved in several initiatives relative to abuse and neglect. OHR staff participated in the Department's efforts to develop a new system of aggressive behavior intervention. These efforts resulted in the use of the new Therapeutic Options of Virginia (TOVA) program, which will enhance the treatment and safety of consumers and staff. OHR staff promote and monitor the use of TOVA with private and public providers.

Human Rights Regulation Revision Process

In October 2004, the Office of Human Rights invited consumers, family members, local and state committee members, advocacy organizations, providers, professionals and state agency representatives to join an advisory group to give guidance to the Department about how to revise the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers*

of Mental Health, Mental Retardation and Substance Abuse Services. This group, the H3R (Human Rights Regulation Revision) Advisory Committee divided itself into subcommittees to review particular sections or topics of concern in the regulations. The subcommittees were as follows: Participation in Decision-Making; Administrative Processes; Substance Abuse; Children and Adolescents; and Seclusion, Restraint and Time Out. Each subcommittee developed recommendations for changes to the regulations that the H3R Advisory Committee took action upon at its meeting on June 27, 2005. The result of the action taken by the Advisory Committee is the Final Report of the H3R Advisory Committee that was submitted to the Department on July 5, 2005.

The Department carefully considered the recommendations in the Final Report of the H3R Advisory Committee in the revision of the regulations. Many of the recommendations have been incorporated into the revised regulations.

Following approval by the Governor the regulations then entered a 60-day public comment period during which comments were received from 88 individuals and groups. Final revisions were made to the regulations based on those comments and the State Board approved the regulations for submission to the Governor for final action on May 4, 2007. The Department anticipates that the revised regulations will go into effect sometime in late 2007.

Projected Activities for 2007-08

The primary goal for the Office of Human Rights for the year 2007-08 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. In support of this goal a major activity for the upcoming year will be to provide training on the revised *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation or Substance Abuse Services*. Other major projected activities for the Office of Human Rights for the year 2007-08 are as follows:

- A. Provide training and guidance on the revised human rights regulations.
- B. Promote best practice models of recovery and self empowerment
- C. Provide support, training and guidance to local human rights committees
- D. Participate in the regional restructuring planning process.
- E. Promote coercion free environments statewide.
- F. Work with stakeholders to identify options to improve the system and availability of alternative decision-makers.
- G. Promote consistency and accurate documentation of monitoring activities.
- H. Develop resources to assist consumers and providers as needed.

Local Human Rights Committees

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. A listing of all 65 LHRCs and their program affiliates can be found in Appendix III.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing bylaws;
- reviewing variance requests;
- conducting fact-finding conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

Advocates Activities

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

- Assisting consumers in presenting and resolving complaints;
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
- Monitoring the implementation and compliance with the regulations;
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 450 providers in the state;
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation on the human rights program to consumers, program staff, LHRCs, and advocacy and community groups.
- In addition to the above, the regional advocates provide advocacy services to community licensed public and private programs in their assigned service areas. They also provide supervision to the facility advocates in that area.
- Regional staff/teams prepared comprehensive Regional Reports for 2006. These reports provide detailed statistics and information about human rights activities in each of the six regions. Copies of the Regional Reports may be found at <http://www.dmhmrzas.virginia.gov/OHR-default.htm>.

Summary of Community Program Abuse/Neglect and Complaint Allegations

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2001, 2002, 2003, 2004, 2005 and 2006. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were 689 formal human rights complaints as reported to Regional Advocates in 2006. This is down from 849 in 2005. The number of human rights complaints fluctuates greatly from year to year as evidenced by the table below. The Office of Human Rights understands the fluctuation as a function of many factors including improved management of informal complaints, better understanding of the provider duties under the regulations, increased provider training and consultation, better general understanding of the regulations and improved LHRC oversight. It is also important to point out that the data from 2004 was incomplete and does not represent all the activity from that year.
- There were 3098 allegations of abuse and/or neglect as reported to Regional Advocates in 2006. The large increase in allegations results from the large number of peer on peer incidents that were investigated as potential neglect. Most providers only began reporting peer on peer incidents in the last two years so the data on these types of incidents is new.
- There were 334 substantiated cases of abuse and or neglect as reported to Regional Advocates in 2006, which is up from the 286 reported in 2005. While this number of substantiated cases has increased it has not increased in relation to the number of allegations. In 2005 14% of the allegations of abuse and neglect were substantiated while in 2006 that number fell to 10%.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific provider rather than a tool for comparison among providers or regions.

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2001	899	162	840
2002	1094	215	785
2003	1626	252	380
2004	*1694	*276	*534
2005	1938	286	849
2006	** 3098	** 334	**689

*Incomplete data

** Data from Regional Reports

Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations

(Data source is CHRIS)

- There were 668 formal human rights complaints in state facilities in 2006. For the first time this figure includes data from the Virginia Center for Behavioral Rehabilitation (VCBR). The combined total of formal (668) and informal (1381) is 2049. This is 477 or 23% more complaints than in 2005. This increase is primarily due to the responsiveness and better reporting of the informal complaint process.
- Six hundred sixty one (661) of the facility complaints were resolved at the Director's level or below. Seven (7) human rights complaints were heard on appeal at the LHRC level and 2 of those complaints were heard on appeal at the SHRC level.
- There were 435 allegations of abuse/neglect in the state facilities. This continues the trend of the reduction in allegations of abuse and neglect in state facilities since 2001.
- The number of substantiated cases of abuse and neglect declined in 2006 from 110 in 2005 to 92 in 2006.
- The regulations provide for an Informal Complaint [12 VAC 35-115-160] process that is conducted by the provider prior to the involvement of the Human Rights Advocate. The Informal Process has been widely and variably utilized within state operated facilities. During 2006 there were 1381 Informal Complaints processed within state operated facilities. This is a large increase over the past years. The Office of Human Rights monitored the outcome of these Informal Complaints and found that the complaints were being resolved to the satisfaction of the individual consumer.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific facility rather than in comparison among or between facilities.

State Facility
Abuse/Neglect Data

#Allegations/ #Substantiated

	2001	2002	2003	2004	2005	2006
Catawba	33/0	16/0	8/0	12/5	8/0	10/1
Central State	223/29	172/28	148/27	119/10	131/14	127/25
CVTC	68/14	73/13	63/18	51/13	53/17	21/5
CCAA	25/1	12/0	11/0	11/0	8/0	4/1
Eastern State	101/23	71/12	79/14	92/8	68/7	72/12
Hiram Davis	12/0	10/4	9/1	7/1	11/1	6/0
NVMHI	41/0	65/4	49/4	29/1	47/3	13/2
NVTC	11/3	16/7	11/5	12/7	10/6	5/3
Piedmont	18/4	17/4	6/3	9/1	13/2	7/3
SEVTC	52/5	47/13	71/19	29/8	38/10	34/11
SVMHI	12/0	4/0	21/1	6/2	3/1	3/1
SVTC	34/9	39/12	60/23	70/27	70/28	67/17
SWVMHI	30/0	40/3	34/3	32/7	26/2	20/1
SWVTC	63/2	71/6	66/9	71/7	53/12	29/5
Western State	62/5	33/5	24/6	15/1	10/7	17/5
VCBR						13/0
Totals	785/95	686/112	660/133	565/98	549/110	448/92

State Facility
Formal Human Rights Complaints

	2001	2002	2003	2004	2005	2006
Catawba	210	122	40	22	36	8
Central State	60	109	179	193	58	51
CVTC	176	191	42	11	17	5
CCAA	69	34	8	1	3	0
Eastern State	203	53	84	101	32	58
Hiram Davis	2	1	1	2	1	4
NVMHI	251	99	52	51	57	4
NVTC	17	4	0	0	1	0
Piedmont	106	69	77	76	68	52
SEVTC	9	5	2	3	6	4
SVMHI	32	24	31	26	11	15
SVTC	9	12	7	10	11	13
SWVMHI	183	80	41	28	39	26
SWVTC	22	19	17	15	0	5
Western State	391	239	171	241	261	263
VCBR						160
Totals	1740	1061	752	780	601	668

State Facility
Informal Complaints

	2003	2004	2005	2006
Catawba	29	35	47	29
Central State	29	21	99	132
CVTC	71	18	9	178
CCAA	21	22	36	45
Eastern State	502	373	317	468
Hiram Davis	5	3	2	3
NVMHI	40	75	57	15
NVTC	2	1	1	0
Piedmont	23	18	16	26
SEVTC	14	6	3	6
SVMHI	4	19	12	12
SVTC	4	11	13	24
SWVMHI	144	81	58	68
SWVTC	27	19	31	18
Western State	232	202	270	357
Totals	1147	904	971	1381

APPENDIX

I

OFFICE OF HUMAN RIGHTS DIRECTORY
OFFICE OF HUMAN RIGHTS REGIONS

APPENDIX

II

Human Writes

APPENDIX

III

Local Human Rights Committees and Affiliations